



1111 East Main Street, Suite 1920    Richmond, Virginia 23219    (804) 644-3100

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## **Request for Proposals**

### **State Revolving Funds – Lender's Counsel**

**Due Date: May 18, 2017**

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Notice: VRA does not discriminate on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status. VRA does not discriminate against faith-based organizations.

## REQUEST FOR PROPOSALS (RFP)

**Issuing Authority:** Virginia Resources Authority (VRA)  
1111 E. Main Street, Suite 1920  
Richmond, VA 23219

**Sealed Proposals Will Be Received Until:** May 18, 2017, at 5:00 p.m., EST, for the services described herein.

**All Inquiries For Information Should Be Directed To:** Curtis Doughtie, [cdoughtie@virginiaresources.org](mailto:cdoughtie@virginiaresources.org)  
(804) 644-3100

**This Entire Proposal Package Should Be Mailed To Or Hand Delivered To:** Virginia Resources Authority  
Attn: Curtis Doughtie  
1111 E. Main Street, Suite 1920  
Richmond, VA 23219

In compliance with this request for proposals and to all the conditions imposed therein and hereby incorporated by reference, the undersigned offers and agrees to furnish the services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

	<b>Date:</b>	
<b>Name of Firm ("Offeror"):</b>		
<b>Address:</b>		
<b>City, State, Zip Code:</b>		
<b>Phone No.:</b>		
<b>Fax No.:</b>		
<b>Email:</b>		
<b>By and Title:</b>		
<b>Signature:</b>		
<b>FEI/FIN No.</b>		

PLEASE COMPLETE AND RETURN THIS PAGE WITH YOUR PROPOSAL.

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## **I. Purpose/Background.**

### **A. Purpose**

The purpose of this Request for Proposals is to solicit proposals from qualified attorneys in private practice (“Offerors”) to establish an agreement through competitive negotiations to provide legal services to the Virginia Resources Authority (“VRA” or “Authority”) for the Virginia Water Facilities Revolving Fund (“Clean Water Program”), Virginia Water Supply Revolving Fund (“Drinking Water Program”), the Virginia Airports Revolving Fund (“VARF”), and the Tobacco Region Revolving Fund (“TRRF”), collectively referred to as the “Revolving Loan Funds”, as more fully described herein.

As used in this RFP, “Counsel” refers to the firm(s) and attorney(s) selected through this solicitation. The Authority reserves the right to appoint multiple firms or individuals through this solicitation and makes no guarantee as to the volume of work that may be referred under this appointment.

VRA intends to enter into a contract or contracts with the selected firm(s) for a term of three (3) years with two (2) one-year options, which may be exercised at VRA’s discretion.

### **B. Background**

VRA was created in 1984 as a political subdivision of the Commonwealth of Virginia pursuant to the Virginia Resources Authority Act, being Chapter 21 of Title 62.1 of the Code of Virginia of 1950, as amended. VRA is governed by a Board of Directors (the “Board”), appointed by the Governor of Virginia. VRA’s Executive Director (the “Executive Director”), who is also appointed by the Governor of Virginia, administers, manages and directs the affairs of VRA, subject to the policies, control and direction of the Board.

VRA works with cities, towns, counties and other political subdivisions of the Commonwealth (“Local Governments”) to provide low cost loans for a number of project areas, including local government buildings, public safety, transportation, dam safety, wastewater, drinking water, solid waste, storm water drainage, federal facility development, and brownfield remediation projects, among others. In the fiscal year ended June 30, 2016, VRA financed investments of 160 loans and grants totaling over \$461 million for infrastructure projects across the Commonwealth. Since its creation by the General Assembly in 1984, VRA has funded more than 1,500 critical projects across the Commonwealth, exceeding \$7.5 billion of investment in Virginia’s communities.

VRA issues bonds and lends the proceeds to Local Governments several times a year in its Virginia Pooled Financing Program (the “VPFP”). VRA also serves as the financial administrator of programs in conjunction with state agency partners: (1) Virginia Water Facilities Revolving Fund, (2) Virginia Water Supply Revolving Fund, (3) Virginia Airports Revolving Fund, (4) Dam Safety and Flood Prevention Fund, (5) Brownfields Restoration and Economic Redevelopment Assistance Fund, (6) Virginia Transportation Infrastructure Bank, and (7) Virginia Tobacco Region Revolving Fund. These programs are funded from federal grants with a state match or state appropriations. These state and federal funds are used to make grants and low-interest rate loans.

## **II. Statement of Needs.**

The Clean Water Program, which is partly funded through state appropriations and partly funded from federal funds received through the Environmental Protection Agency (“EPA”), is administered in part by the Virginia Department of Environmental Quality (“DEQ”). The Clean Water Program is used to make loans to local governments for wastewater treatment purposes, stormwater control, brownfield remediation and land conservation. To date, 457 loans have been made, providing nearly \$2.8 billion in financial assistance to localities across the Commonwealth. Loans for brownfield remediation and land conservation may be made to private and not-for-profit entities. The Clean Water Program has averaged closings of about 15 loans approximating \$100 million per year. The loans range from \$100,000 to \$10 million.

The Drinking Water Program, which is partly funded through state appropriations and partly funded from federal funds received through the EPA, has made 349 loans and grants to 107 borrowers and a handful of private waterworks (totaling \$342 million) since its inception. The Drinking Water Program is jointly administered by the Virginia Department of Health.

VARF was capitalized with a state appropriation. To date, \$91 million has been funded for 36 projects. Virginia’s 67 public airports are eligible borrowers. This program is jointly administered with the Virginia Department of Aviation and one or two loan closings can be expected per year.

TRRF was established in 2015 with the potential for a \$50 million capitalization from the Tobacco Indemnification and Community Revitalization Endowment. No loans have been entered into at this time. Several loans are contemplated and may include industrial development authority conduit arrangements.

The typical closing for general obligation or water and/or sewer revenue loans involve between 10 and 15 attorney hours. Servicing activities require a total of about 25 to 100 hours or more per year depending on various factors.

The scope of work is expected to include, but is not necessarily limited to, the following:

- Coordination with VRA staff, the borrower’s general counsel and bond counsel on all aspects of the loan transaction including the issuance of the borrower’s bond to the VRA and negotiation of opinions to be obtained for the VRA from the borrower’s general counsel and bond counsel. Advise on appropriate covenants for inclusion in agreements between VRA and borrowers.
- Prepare or review resolutions, notices and other documents required for completing Revolving Loan Funds transactions.
- Attend pre-closing of Revolving Loan Funds transactions.
- Participate as necessary in various meetings with borrowers (attendance at “due diligence” meetings), financial advisors, consulting engineers, and general and bond counsel.

- Assist in and provide advice on negotiations with borrowers on security and other provisions for Revolving Loan Funds loans.
- Provide on-going advice and assistance with respect to matters relating to Revolving Loan Funds programs and operations to ensure compliance with all requirements of the financing documents.

### **III. Proposal Preparation and Submission Instructions.**

#### **A. General Requirements.**

To be considered, proposals must be received by VRA no later than 5:00 p.m. EST, on May 18, 2017. Interested parties should submit proposals to:

Virginia Resources Authority  
Attn: Curtis Doughtie  
1111 E. Main Street, Suite 1920  
Richmond, VA 23219

VRA requests that each Offeror submit one (1) original and three (3) copies of its proposal. **Interested parties may submit written comments or questions on any aspect of this Request for Proposals on or before 5:00 p.m., EST, on April 28, 2017.** Such comments or questions shall be submitted to Curtis Doughtie by e-mail at [cdoughtie@virginiaresources.org](mailto:cdoughtie@virginiaresources.org). VRA reserves the right to extend either of the foregoing deadlines or to issue addenda modifying this Request for Proposals, as it deems necessary. Notice of such extensions and/or modifications, as well as answers to questions or comments, will be provided on VRA's website at [www.VirginiaResources.org](http://www.VirginiaResources.org).

VRA shall have the sole right to determine whether any noncompliance by a proposal with any of the requirements herein is substantial in nature, to reject any proposal deemed by VRA in its discretion not to be in substantial compliance with the requirements herein, and to waive (or to allow an Offeror to correct) any noncompliance determined by VRA in its discretion not to be substantial in nature. VRA reserves the right to not select any proposal.

By submitting their proposals all Offerors are deemed to certify that they are not currently barred from submitting bids/proposals on contracts by any agency of the Commonwealth of Virginia.

All proposals shall become the property of VRA and will not be returned to the Offerors.

VRA is committed to increasing the opportunities for participation of small, women-owned, and minority-owned (SWaM) businesses located in the Commonwealth of Virginia in all procurement and contract activities. VRA welcomes and encourages the participation of SWaM businesses to respond to all Invitations for Bids and Requests for Proposals.

All Offerors are hereby placed on notice that neither VRA nor its employees or agents or members of its Board of Directors shall be lobbied either individually or collectively

regarding this RFP. Offerors, consultants and their agents are hereby advised that they are not to contact members of VRA for such purposes as holding meetings of introduction, dinners, etc., if they intend to submit, or have submitted a Proposal.

## **B. Specific Proposal Instructions**

The proposals must provide the following information and documents:

1. **Primary Contact and Assigned Personnel.** Give the name, title, firm, address, telephone number, and email address of the one individual who would be primarily responsible for this engagement. Identify the individuals who would perform the work in this engagement and describe how their responsibilities will be assigned and managed. Provide resumes for each person, including background and experience relevant to this engagement, and each person's capacity to provide advice as quickly as needed if the primary contact for the engagement is not available. Counsel will not be compensated for work completed by any individual other than those named or later approved by the Authority prior to beginning such work.
2. **Commitment to Professional Responsibility and Due Care.** Each Offeror shall certify that the attorneys listed to perform the work in this engagement are all in good standing with their respective bars and shall endeavor to maintain such standing for the duration of the appointment. Should the professional status of any of the listed attorneys change, the Authority shall be notified within three (3) business days. Offeror also certifies that the individuals listed as potential timekeepers agree to exercise professional due care in the fulfillment of their obligations under this RFP.
3. **Experience and Knowledge.** Describe in detail each attorney's expertise relevant to this RFP.
4. **Public Agency Experience and Knowledge.** Describe each attorney's experience advising and representing public agencies and institutions.
5. **Changes in Laws and Regulations.** Briefly describe the Offeror's process and resources for keeping abreast of changes in state and federal law and regulation such as the Virginia Public Finance Act, Virginia Water and Waste Authorities Act and for maintaining the legal expertise necessary to successfully represent the Commonwealth's interests in such matters.
6. **References.** List and describe briefly any relevant experience that may qualify the Offeror for appointment under this RFP. Describe the Offeror's role in the engagement and identify the persons who may be contacted as references (include dates, length of engagement, name, title, address and telephone number for each reference). Limit the response to no more than five recent engagements.
7. **Conflicts.** Any attorney or firm selected for this engagement would be precluded from representing any client in any matter against the Authority and its employees. This prohibition will extend to any member of the Offeror's firm. If your firm is representing clients or previously represented clients in matters where the exercise of

your professional judgment in this engagement might be affected, identify and describe each situation.

- a) If you are representing clients in litigation with a Commonwealth agency or any institution of higher education, or the Commonwealth itself, identify and describe each situation.
- b) If you are representing clients in contract or other matters where, in your judgment, the exercise of your professional judgment on behalf of a Commonwealth agency or institution of higher education might be affected, identify and describe each situation.
- c) If any member of, or associate in, your firm serves on any board, commission, committee or other organization related in any way to any public body related to this RFP or the Commonwealth, identify each individual, provide the title of each individual, and the capacity in which he or she serves with that board, commission, committee, or other organization.
- d) If any member of, or associate in, your firm serves as a member of the General Assembly, give the name and title of each individual.
- e) Please acknowledge your ongoing commitment to identify client conflicts and notify the Authority of conflicts issues as soon as possible and practicable.

- 8. **Professional Liability Coverage.** Describe your professional liability coverage for work of this type, including limits of coverage and the expiration date. Attach a copy of the cover page of your policy.
- 9. **Other Disclosures.** Describe any investigations by governmental or authoritative bodies or disciplinary actions related to the firm or staff or any past or pending matter that may be interpreted to reflect negatively upon the firm's commitment to compliance with laws or professional standards.
- 10. **Pricing.** Public interest considerations should prompt firms considering this RFP to undertake services at substantially reduced rates to be competitive for the award of this appointment. The Authority will not authorize payment for work that fails to comply with the terms and conditions stated herein, that is excessive or disproportionate in time or task, or that is contrary to any policy, term or condition as may be specified by the Authority now or in the future.
  - a) **Normal Billing Rates.** List normal hourly billing rates Offeror charges for any persons identified in Section 4.1 of this RFP and identify other timekeepers (including paralegals) who will bill on an hourly basis, along with their normal rates. Timekeepers will not be approved if they are not personally named with a corresponding title and billing rate.



- b) **Proposed Billing Rates and Methods.** List any discount in hourly billing rates the Offeror is willing to provide under this proposal. While there are many creative ways in which a firm can supply lower rates, examples of favorable proposals might include: standard hourly rates subject to an agreed upon ceiling rate, standard hourly rates less an agreed upon percentage, flat rate proposals, blended rate proposals or other billing methods. You should also provide information on how you propose to keep track of, and charge for, any expenses. Incidental office expenses, such as photocopies, facsimiles, mailing postage, courier fees and office supplies will not be reimbursed for this work. Occasional and extraordinary expenses, such as court filing fees, legal research expenses, and extraordinary photocopy costs, may be reimbursable if itemized with appropriate receipts or other appropriate documentation. No fees or expenses will be paid for travel time or mileage, except in cases when the attorney's travel exceeds 50 miles one way. Attorney travel in excess of 50 miles one way will be reimbursed at one-half the hourly billing rate if itemized with receipts or appropriate documentation, in accordance with laws and regulations of the Commonwealth. If you previously held a Commonwealth appointment during the last three years, please state the prior approved rates and any increases you were granted during the engagement period. If you are asking for an increase in your rate since the last procurement, please include in your proposal any assumptions upon which your hourly fee is based and any factors that you believe would justify an increase in the fee.
- c) **Discrete Projects.** If the Authority desires Counsel to undertake a discrete project such as a formal written opinion, administrative proceeding, or assistance with litigation, Counsel shall, within ten (10) working days from the date of request, prepare a budget covering all projected legal time and disbursements. In the case of long term projects, budgets will be prepared on an annual basis or as otherwise directed by the Authority. In either case, Counsel shall be responsible for staying within the budget agreed upon and will not exceed it without the express and advance written approval of the Authority. If the budget is to be exceeded, a supplementary budget will be prepared and submitted to the Authority for approval in advance. Unauthorized billings will not be paid.
- d) **Billing and Payments.** Counsel will bill for legal services under this appointment at the conclusion of an assigned matter or the Authority will approve interim billing (i.e., quarterly) on a case-by-case basis. Counsel will provide the Authority with detailed statements that will permit thorough monitoring of legal services. The billing statement for each matter must contain a detailed description of the work performed on a daily basis, identifying all personnel involved, the amount of time expended and the authorized charges associated with the work performed. Billing will also itemize each task or activity and the amount of time expended per task, to permit thorough monitoring and review.

#### **IV. Evaluation and Award Criteria.**

##### **A. Evaluation Criteria.**

The Offerors submitting proposals must have the capabilities and qualifications described below:

1. Capacity and Resources. The Offeror must have the capacity and resources to perform all of the previously-described services in a prompt, responsive manner and with excellent work quality in the timeframe needed.
2. Expertise and Experience. The Offeror's staff must have demonstrated expertise and significant experience in serving clients (such as governmental entities and authorities) similar to VRA.
3. Record of Performance. The Offeror and its staff must have a record of highly satisfactory performance in providing prompt, effective and responsive services to clients similar to VRA.
4. Staff Qualifications. The Offeror's staff who will be assigned responsibilities for the performance of any of the aforementioned services under the contract must have the education, experience, knowledge, skill and qualifications necessary to adequately perform the services for which they will be responsible.
5. Fees. The Offeror must propose a fee structure which is fair and reasonable for the services to be performed. Such estimates and fee structure shall be based upon a fixed schedule of fees for the initial term of the contract. Offeror must also propose a fixed schedule of fees for each of the additional annual terms.
6. Professional Liability Insurance. The Offeror must have in full force and effect professional liability insurance with an insurance company and in an amount acceptable to VRA.
7. Small, Women and Minority Owned Business. The Offeror should demonstrate its qualification as a DMBE-certified small business, or its utilization of DMBE-certified small businesses, including their qualifications related to the work expected to be performed.

##### **B. Award of Contract.**

1. Evaluation Factors. The Offerors will be evaluated by VRA based on the evaluation criteria listed above.
2. Selection Process. VRA shall rank each of the Offerors in accordance with the evaluation factors listed above. Based upon such ranking, VRA shall select two or more Offerors deemed fully qualified, responsible and suitable on the basis of the proposals to provide the aforementioned services. VRA shall thereafter engage in interviews and/or discussions with the Offerors so selected.

At this stage, VRA may obtain written and/or oral recommendations from one or more of the clients of each such Offeror listed as a reference in such Offeror's proposal or otherwise identified therein or known to VRA. Also, VRA may require the Offeror to provide such additional information and documents as VRA may deem necessary or appropriate to conduct its review and evaluation of the proposal.

The review and evaluation of proposals and the interviews, discussions and negotiations with Offerors are to be conducted by a selection committee formed by VRA.

3. Award. Selection shall be made of one or more Offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including fees. Negotiations shall be conducted with the Offeror(s) so selected. Fees shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each Offeror so selected, VRA shall select the Offeror(s) which, in its opinion, has made the best proposal, and shall award the contract to that Offeror(s). VRA reserves the right to make multiple awards as a result of this solicitation.

VRA may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia, Section §2.2-4359D*). Should VRA determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

4. Accept and/or Reject In Whole or In Part. VRA reserves the right to accept and/or reject any proposal in whole or in part.
5. Approval of Subcontractors. VRA reserves the right to approve any subcontractors.

## **V. General Terms and Conditions.**

Each Offeror agrees to the following terms and conditions:

1. The solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth of Virginia.
2. By submitting its proposal, each Offeror certifies that its proposal is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other Offeror in connection with its proposal and that it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of

nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

3. The term of the contract shall be three (3) years with VRA to have the option to extend the contract for up to two (2) additional terms of one (1) year each. The contract may be terminated by either party, with or without cause, upon thirty (30) days' advance written notice to the other party.
4. The contract shall specify the fee structure agreed to by VRA and the Offeror and the manner and timing for the submission of bills. In the contract, the Offeror must agree to maintain the above-described professional liability insurance during the term of the contract. The contract shall require the prior approval of VRA for any change in the individuals or subcontractors who are designated in the proposal to serve on the VRA account or any change in their respective responsibilities. The contract shall provide that the contract shall not be assigned, and the performance of any services thereunder shall not be subcontracted, without the prior written approval of VRA. The Offeror's proposal and any modifications thereto required or approved by VRA will be incorporated into the contract. All other terms and conditions of the contract must be satisfactory to VRA.
5. The following provisions shall be included in the contract:

**Non-Discrimination Against Faith-Based Organizations**

VRA does not discriminate against faith-based organizations.

**Immigration Reform**

The Offeror, by signing the bid or proposal, certifies that it does not and will not during the performance of this contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

**Payment**

- a) If work hereunder is performed by a subcontractor, then, within seven days after receipt of amounts paid to Offeror by VRA for work performed by the subcontractor, Offeror must either (i) pay the subcontractor for the proportionate share of the total payment received from VRA attributable to the work performed by the subcontractor under this contract, or (ii) notify VRA and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
- b) Offeror must provide its social security number or its federal employer identification number.
- c) Offeror must pay interest to all subcontractors on all amounts owed by Offeror that remain unpaid after seven days following receipt by Offeror of

payment from VRA for work performed by any subcontractors under this contract, except for amounts withheld as allowed in subsection (a) (ii).

- d) Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month.
- e) Offeror must include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as are set forth in this Section with respect to each lower-tier subcontractor.

**Procedures for Consideration of Contractual Claims/Administrative Dispute Resolution**

**VRA and the Offeror will attempt in good faith to resolve any claim or dispute arising out of or in connection with this Contract by using an alternative dispute resolution proceeding as authorized by the Virginia Administrative Dispute Resolution Act, Code of Virginia §§ 2.2-4415 et seq.**

- a) In the event of a claim by Offeror arising out of the performance of this contract, the Offeror shall submit to VRA, no later than 60 days after final payment to the Offeror under the procurement contract, a written claim (hereinafter the "Written Claim") for money or other appropriate relief stating the facts and circumstances upon which the claim is based and the nature of the relief sought; provided, however, that unless the Offeror filed with VRA a written notice of intention (hereinafter "Notice of Intent") to file such Written Claim at the time of the occurrence or at the beginning of the work upon which the claim is based, then the Offeror shall be deemed to have waived his claim. For purposes of this paragraph, the phrase "at the beginning of the work" shall mean within 7 days after any goods or services are first provided pursuant to the procurement contract, and the phrase "at the time of the occurrence" shall mean within 7 days of the first event giving rise to the claim; provided, however, that in instances where the event giving rise to the claim is an alleged wrongful omission or wrongful failure to act, the 7 day time period shall begin to run from the time that duty to act arose. For purposes of this Exhibit, a Written Claim and a Notice of Intent shall be deemed filed when it is received by VRA.
- b) Within 90 days of the filing of the Written Claim, VRA shall conduct an initial meeting with the Offeror who shall have the right to have his attorneys present. VRA shall establish the date, time and place of such initial meeting and shall give notice to the Offeror of such meeting at least 17 days prior thereto. (Such notice may be written or oral and shall be deemed to be given when received by the Offeror.) Failure by VRA to initially meet with the Offeror within said 90 days shall be deemed a denial of the Offeror's claim. If deemed necessary by VRA, additional meetings with the Offeror shall be held by VRA subsequent to said initial meeting.

Such additional meetings may be held after the expiration of the above-described 90 day period. Failure by the Offeror to attend any meetings under this paragraph (b) shall be deemed a waiver of the Offeror's claim. The Offeror shall have the burden of proof with regard to the claim. The Offeror and his attorneys shall have the right to present witnesses, documents and other evidence in support of the claim. At each such meeting, VRA shall be represented by the Executive Director or a person appointed by the Executive Director. VRA shall also have the right to have its attorneys present at each meeting and to present witnesses, documents and other evidence.

- c) All such meetings shall be conducted on an informal basis, and the rules of evidence shall not apply. Witnesses shall not be sworn, nor shall recordings or transcripts be taken or made of any meeting. VRA and the Offeror may agree, pursuant to paragraph (f), to record or transcribe any meeting, however, such recording or transcript shall not be admissible in any court or any other tribunal unless the written agreement shall expressly so provide.
- d) Within 60 days after all such meetings have been completed, the Executive Director, or any person appointed by the Executive Director, shall present his/her recommendation regarding such claim in writing to the Board. The Offeror shall have the right to receive a copy of said recommendation. Within 75 days after the Executive Director or the Executive Director's appointee submits said recommendation to the Board, the Board shall render its decision in writing with regard to the claim. In the event that the Executive Director, or any person appointed by the Executive Director, does not present his/her recommendations within said 60-day period or in the event that the Board does not render such decision within said 75-day period, the Offeror's claim shall be deemed to have been denied. Nothing herein shall preclude the Executive Director or any person appointed by the Executive Director from conducting informal negotiations with the Offeror on the claim or from settling the claim.
- e) The decision of the Board shall be final and conclusive unless the Offeror appeals within six months of the final decision on the claim by the Board by instituting legal action as provided in Section 2.2-4364 of the Virginia Code.
- f) The provisions and procedures set forth in this section may be modified or amended by written agreement between the Offeror and VRA.
- g) Procedures set forth herein shall apply only to disputes arising out of the performance of a procurement contract and of a contractual nature. They shall not apply to disputes arising out of or relating to any other matters, including but not limited to, any of the following:

- 1) Disqualification of Offerors from participation in the competitive negotiation process;
- 2) Withdrawal of proposals; or
- 3) Disputes concerning the award or proposed award of contracts.

#### **Non-Discrimination by Persons Contracting with VRA**

During the performance of this contract, the Offeror agrees as follows:

- a) The Offeror will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Offeror. The Offeror agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b) The Offeror, in all solicitations or advertisements for employees placed by or on behalf of the Offeror, will state that such Offeror is an equal opportunity employer.
- c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements set forth herein. The Offeror will include the provisions of the foregoing paragraphs (a), (b) and (c) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

#### **Drug-Free Workplace**

During the performance of this contract, the Offeror agrees to (i) provide a drug-free workplace for the Offeror's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Offeror's workplace and specifying the actions that will be taken against employees for violations for such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Offeror that the Offeror maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection this contract by the Offeror, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this contract.

### **Non-Discrimination**

VRA does not discriminate on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability or veteran status. VRA does not discriminate against faith-based organizations.